



Date: March 23, 2012

To: Senator Coleman, Representative Fox, and members of the Judiciary Committee

Re: Support for An Act Concerning Domestic Violence – Increasing Length of Civil Restraining Orders
Raised Bill No. 5548

My name is Carrie Bernier, Director of Court and Legal Advocacy for the Domestic Violence Crisis Center. As a member program of the Connecticut Coalition Against Domestic Violence, the DVCC serves more than 4,000 domestic violence victims annually across seven communities in mid-Fairfield County.

In response to a growing need for civil legal services within our communities, my unique role at the DVCC is to provide full time assistance and representation to those victims seeking restraining orders against their abusers. DVCC has been providing this service to victims for the last two years, and to my knowledge, is the only organization, public or private, that has a full time attorney dedicated to this specialization. It with this background, that I strongly urge you to support the proposed amendment to § 46b-15, which would extend the permissible length of Connecticut's Civil Restraining Order to one year instead of six months.

In 2011 alone, the DVCC provided consultation, assistance and/or representation to over 170 individuals seeking to obtain a restraining order against their abuser. Overwhelmingly, my clients would seek a full year restraining order if the statute so allowed. In fact, many are quite disheartened to find out that they can only secure court ordered protection for six months at a time. I have assisted several victims in seeking extensions of their restraining orders in the last six months alone. These extensions proceedings, and the fact that they must be initiated only five months after the original order is granted, are very traumatizing and burdensome for victims. I have provided written testimony from one such victim that I personally worked with as a supplement to my own remarks. She was abused for years by her husband. When she finally made the decision to leave, she obtained a restraining order. He violated this restraining order by coming to her home and bringing a firearm with him. Her restraining order was due to expire while he was in prison awaiting trial for the violation of that order and she had to go through the process of facing him yet again to get an extension of that order for an additional six months. She is one of many victims in Connecticut who share similar experiences.

I would also direct your attention to DVCC360's January Edition of our VERVE newsletter, which critically compares the restraining order protections available in Connecticut to those available in other states around the country. As you can see, Connecticut is one of only four states that does not currently offer at least the option of a one year restraining order. In fact, more than half of the states allow a victim of domestic violence to obtain a restraining order for up to two years.

The civil restraining order is a critical safety tool for victims. The proposed amendment would significantly enhance this protection, and on behalf of DVCC, I strongly encourage you to support it.

MARCH 22, 2022

My name is Jeannie Calcano. During my marriage, I was subjected to abusive behavior that severely negatively impacted my life. My ex-husband was verbally, emotionally and sexually abusive. He was extremely jealous and controlling. My ten-year relationship with him was a nightmare filled with fear, abuse, dysfunction, shame and pain.

One of the most difficult moments in my life was last March, walking into the Domestic Violence Crisis Center (DVCC) and asking for help. I was walking around in a trance, in disbelief of what my life had become; the danger I was in and by taking a stand, I was in essence, risking my life even more. After I told my ex-husband to stay away from me and I was filing for divorce, I went into hiding for my safety. He threatened me and others if they didn't reveal my whereabouts. I filed police reports and met with the Domestic Violence Unit at Stamford Police Dept. (CT), that felt obtaining a restraining order was clearly necessary. With the help of the legal staff at DVCC, I prepared and presented the required paperwork for a restraining order to the court. The judge denied the order. I was devastated, terrified and confused at how all the signs of what he is capable of could be ignored. The next day, I went to see my attorney, back to meet with the attorneys at DVCC and then back to court again. Thank God, this time it was granted.

I was at work the day my ex-husband was arrested. He entered my home and tripped the alarm. The police came in response to the alarm. He fled into the woods surrounding my home. He was captured after sending the police on a wild chase; they had to bring in a canine unit to track him through the swamp and woods.

When the police went through my home, they found a shotgun on my kitchen counter. This was not ever in my home. What was it doing there? What would have happened if there was no restraining order in place? ***I shudder at the thought.***

My ex-husband spent 7 months in jail for violation of the restraining order and other charges. The judge set a \$50,000 bond. While in jail, he went on a hunger strike, threatened suicide and underwent psychiatric evaluation. The mother of his children called the warden pleading with him to stop my ex-husband from sending damaging letters to their children, where he threatened to kill himself if they didn't come bail him out of jail. During this time, the restraining order was close to expiration. I was told by the clerk the order would automatically be reissued, since the respondent was in jail for violating the original order about to expire.

The judge ordered that my ex-husband be present in order to renew the restraining order and he be brought in from jail. I was shocked, terrified and anguished at the thought that I would have to be in the same court room with him again. The restraining order expired after only a few months and I wondered why this process is not geared toward adequately assisting the victim, allowing enough time to heal and address the crisis unfolding in their lives. It is impossible to articulate the mindset, the burden, heavy heart, despair and pain that someone endures in an abusive relationship and how difficult it is to come out of it.

Please consider the impact on the lives of the women and children trying pull themselves up out of anguish - this takes more than a few months. Having to go through the shock each time of facing your abuser is equally as traumatic. If the original order I filed had not been granted, I may not be sitting in front of my computer pouring myself into this statement in hopes that those reading it can, somehow, grasp the concept of how difficult this process truly is.

Permitting victims a full year would enable the time necessary to allow the healing process to take place. Allowing sufficient time to relocate, organize, protect, reassess and most importantly begin to LIVE and to HEAL.

Thank you for your time and consideration.

Sincerely,

Jeannie Calcano

The Need to Overhaul Connecticut's Civil Restraining Order

A NATIONAL PERSPECTIVE

Connecticut is one of only four states that does not permit civil court judges to issue an initial restraining order for at least a one year period.

Less than 1 Yr: 4 states
Connecticut, Hawaii, New Mexico, West Virginia.

Up to 1 Yr: 19 states
Alaska, Arizona, District of Columbia, Georgia, Idaho, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Missouri, Nebraska, Nevada, New Hampshire, North Carolina, Oregon, South Carolina, Tennessee, Vermont, Wyoming.

Up to 2 Yrs: 7 states
Delaware, Illinois, Indiana, Maine, Minnesota, Texas, Virginia.

Up to 3 Yrs: 6 states
Kentucky, Mississippi, Oklahoma, Pennsylvania, Rhode Island, Wisconsin.

Up to 5 Yrs: 4 states
California, New York, Ohio, South Dakota.

More than 5 Yrs: 10 states
Alabama, Arkansas, Colorado, Florida, Michigan, Montana, New Jersey, North Dakota, Utah, Washington

When Connecticut's 2012 Legislative Session begins in February, DVCC360, along with the Connecticut Coalition Against Domestic Violence and its member programs, will seek to have Connecticut's restraining order statute (C.G.S. § 46b-15) amended to permit judges to issue civil restraining orders for up to one year, instead of limiting these orders to a mere six months.

EXTENDING THE PERMISSIBLE LENGTH OF RESTRAINING ORDERS IS LONG OVERDUE

Every state across the country has a law that allows a victim of domestic violence to apply for an emergency/ex parte order of protection through the civil court and then to have that emergency/ex parte order extended for a longer term. Connecticut is one of only four states that limit this longer term to less than a one year period.¹ Every other state allows for a period of at least one year.² In fact, more than half

of the states expressly authorize a civil court to issue a restraining order for up to two or more years.³

Under C.G.S. § 46b-15, Connecticut judges are currently limited to issuing an order that lasts for 180 days (effectively 6 months). To obtain an extension, the victim must file an application and serve the abuser before the original order expires. This means that, in Connecticut, a victim must start the re-application process only five months after the hearing at which it was originally granted, and must confront their abuser every six months. This is incredibly burdensome for victims, both emotionally and logistically, as well as for our civil court system.

By issuing restraining orders for a full one year term, the civil court is likely to see a decrease in motions to extend these orders, which translates to fewer court hearings and less paperwork for our civil clerks to process. Not only does the proposed change decrease the burden on victims of domes-

1. Connecticut, see C.G.S. § 46b-15; Hawaii, see H.R.S. §§ 586-5, 586-5.5; New Mexico, see N.M.S.A. § 40-13-6; and West Virginia, see W. Va. Code § 48-27-403.

2. Alaska, see A.S. § 18.66.100(b); Arizona, see A.R.S. § 13-3602(k); District of Columbia, see D.C. Code § 16-1005(d); Georgia, see O.C.G.A. § 19-13-4(c); Idaho, see I.C. § 36-6306(1); Iowa, see I.A. St. § 236.5(2); Kansas, see Kansas Code § 60-3107(6); Louisiana, see L.A.R.S. § 2136(F); Maryland, see M.D. Code § 4-506; Massachusetts, see M.G.L.A. 209A § 3; Missouri, see Mo. St. § 455.050; Nebraska, see Neb. Rev. St. § 42-925(4); Nevada, see N.R.S. § 33.080; New Hampshire, see N.H. Rev. Stat. § 173-B:5; North Carolina, see N.C.G.S. § 50B-3; Oregon, see O.R.S. § 107.700, et. seq.; South Carolina, see Code 1976 § 20-4-70; Tennessee, see Tenn. Code Ann. § 36-3-605; Vermont, see 15 V.S.A. § 1103; Wyoming, see WY Stat. § 35-21-106(b).

3. Alabama, see Ala. Code § 30-5-7(d)(2); Arkansas, see

A.C.A. § 9-15-205(b); California, see California Family Code § 6345(a); Colorado, see Colo. Rev. Stat. § 13-14-102; Delaware, see 10 Del. C. 1041(b); Florida, see Fla. Stat. § 741.30; Illinois, see 750 I.L.C.S. § 60/220(b); Indiana, see I.C. § 34-26-5-9(e); Kentucky, see K.R.S. § 403.750(2); Maine, see M.R.S. 19-A § 4007; Michigan, see M.C.L.A. § 600.2950a; Minnesota, see Minn. Stat. § 518B.01(6)(b); Mississippi, see M.S. Code § 93-21-17(2); Montana, see Mont. Code Ann. § 40-15-204; New Jersey, see N.J.S.A. § 2C:25-29; New York, see NY Fam. Ct. Act § 842; North Dakota, see N.D.C.C. § 14-07.1; Ohio, see Ohio Rev. Code § 3113.31; Oklahoma, see 22 O.S. § 60.4; Pennsylvania, see 23 Pa.C.S.A. § 6108; Rhode Island, see R.I. Gen. Laws § 8-8.1; South Dakota, S.D.C.L. § 25-10-5; Texas, see Tex. Fam. Code § 85.025; Utah, see U.C.A. 1953 § 78B-7-106; Virginia, see Va. Stat. § 16.1-279.1; Washington, see R.C.W. § 26.50.060; Wisconsin, see Wis. Stat. § 813.12(4).

THINKING OUTSIDE THE BOX:

What Other Protections Can We Offer Victims Through A Restraining Order?

Restitution: 18 states expressly authorize the restraining order court to order restitution for out of pocket expenses, such as medical expenses, relocation costs and lost wages.*

Intervention Services: 31 states expressly authorize the restraining order court to order an offender to some sort of counseling, substance abuse treatment and/or batterer intervention services to attempt to prevent future abuse.*

Stop Financial Retaliation: 20 states expressly authorize a restraining order court to order an offender to continue to make any rent/mortgage payments on the common dwelling and/or provide suitable alternative housing for the victim to ward of financial abuse as retaliation for a victim pursuing the restraining order.**

Possession/use of a vehicle or other personal property: 27 states expressly authorize a restraining order court to order exclusive possession of a vehicle and/or to not destroy and/or dispose of any personal or joint property.**

*According to state by state summaries of civil protection order provisions compiled by WomensLaw.org.

**According to "Economic Relief Available in Protection Orders," a compilation by the Battered Women's Justice Project, found at: <http://www.jwi.org/Document.Doc?id=130>

tic violence, it also has fiscal relevance to a State system currently burdened with budget concerns. Connecticut must join the rest of the country and permit the civil courts to issue restraining orders for at least a one year period.

As we look forward to the coming months and a robust dialogue about Connecticut's restraining order statute, DVCC360 believes we need to not only examine the merit of extending the length of time for which these orders can be granted, but also our current restraining order statute in its entirety, both the processes and available protections, as well highlight best practice strategies that can be easily implemented by our community partners under the current statutory scheme in order to improve the overall experience for victims.

EXPAND SCOPE OF RESTRAINING ORDER PROTECTIONS

When looking at the types of available protections available to victims of domestic violence across the country, Connecticut appears to be extraordinarily conservative. The protections available under C.G.S. § 46b-15 include only the basic universal protections available in every state.⁴ While Connecticut, like most other states, also expressly permits the court to additionally "make any such orders it deems appropriate for the protection of the applicant and such dependent

children ...," such provisions are widely underutilized.

While, of course, physical safety will continue to be the primary concern with respect to establishing the need for a restraining order, other states have, for quite some time, also been cognizant of the extreme financial and economic abuse and retaliation victims of domestic violence experience before, during and after the restraining order is granted. Almost every state in the nation has crafted legislation which provides for more expansive protections aimed at addressing these issues. According to the Battered Women's Justice Project⁵, the civil restraining order statutes in 35 states expressly entertain the provision of temporary child support. Thirty-three of these states also expressly allow for orders of temporary spousal support. These types of orders are just the tip of the iceberg. DVCC360 has highlighted other highly relevant protections and their prevalence in the "Thinking Outside the Box" Sidebar on page 2, and we strongly encourage our community partners to consider that effective community strategies to keep women and families safe from abuse must include measures, such as these outlined, which not only provide for restitution, but also promote critical economic independence.

WHAT CAN WE DO RIGHT NOW?

Even with our limited Connecticut statute, there are ways that we can work

4. C.G.S. § 46b-15 provides, in substantive part: The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit Such orders may include temporary child custody or visitation rights, and such relief may include, but is not limited to, an order enjoining the respondent from (1) imposing any restraint upon the person or liberty of the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting

or attacking the applicant; or (3) entering the family dwelling or the dwelling of the applicant. Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal.

5. "Economic Relief Available in Protection Orders," compiled by the Battered Women's Justice Project, and found at: <http://www.jwi.org/Document.Doc?id=130>.

Universal Strategies for Safety:

- Determine dangerousness and lethality in each case.
- Facilitate issuance of protection orders that provide the broadest relief allowable under state law, as requested by the petitioner
- Facilitate prompt service & enforcement of those orders.
- Consider the impact of child custody
- Maintain victim confidentiality throughout the process.
- Consider safety concerns from a broad perspective that includes victims, communities, and system professionals.

Source: Civil Protection Orders: A Guide for Improving Practice, pgs 2-4.

within the current statutory scheme to promote a better and more coordinated approach to the civil restraining order process. Many of these have been compiled and published by The National Council of Juvenile and Family Court Judges (NCJFCJ) in *Civil Protection Orders: A Guide for Improving Practice*, more commonly referred to as "The Burgundy Book." The goal of this publication was to promote effective issuance, service and enforcement of protection orders nationwide. It highlights six universal strategies which speak to overarching values that must be fully embraced by each professional in the civil restraining order system in order for the system to function effectively, and then goes on to provide recommendations from the NCJFCJ that are specific to advocates, civil attorneys, courts and the judiciary, law enforcement, and prosecutors in turn. DVCC360 highly encourages everyone who comes into contact with families affected by victims of domestic violence to access this document and use it as a reference tool, not only

to inform your own particular area of practice, but to also more broadly inform as to how a community can come together and "ensure that the promise of the civil protection order system is realized."⁶

The Burgundy Book can be found in electronic form at: http://www.ncjfcj.org/images/stories/dept/fvd/pdf/cpo_guide.pdf.

Civil restraining orders will continue to be a critical safety planning tool for victims of domestic violence. Because of this, we, as a community, have a responsibility to ensure that the process of obtaining a civil restraining order, and the protections available to victims through such orders, exemplify Connecticut's commitment to help victims of domestic violence keep themselves and their children safe from abuse.

DVCC360 looks forward to working with all of you as we continue to examine potential improvements to this essential process.

6. Maureen Sheeran, et al. *Civil Protection Orders: A Guide for Improving Practice*, pg. 2. National Council of Juvenile and Family Court Judges (NCJFCJ) (2010)